

**ANNUAL REPORT
To the Commissioner
Department of Environmental Protection
July 1, 2001 -- June 30, 2002
FY 2002**

I. Introduction

The Board of Underground Storage Tank Installers was established in 1985 by 32 MRSA Chapter 104-A and its authorities expanded and modified by subsequent amendments in 1987, 1989, 1990, 1992, 1997, 2001, and 2002. According to the statute, the purpose of the Board is as follows:

"In order to safeguard the public health, safety and welfare, to protect the public from incompetent and unauthorized persons, to ensure the highest degree of professional conduct on the part of underground oil storage tank installers and inspectors and to assure the availability of underground oil storage tank installations and inspections of high quality to persons in need of those services, it is the purpose of this chapter to provide for the regulation of persons offering underground oil storage tank installation and inspection services."

Thus, the Board has three major responsibilities: (1) certifying underground oil tank installers, underground gasoline tank removers, and underground oil storage tank inspectors; (2) managing and accrediting continuing education for certified underground tank installers, removers, and inspectors; and (3) taking disciplinary actions against installers, removers, and inspectors who violate its enabling statutes and rules. By law, the Board is also charged with submitting an annual report to the Commissioner of the Department of Environmental Protection (32 MRSA §10004(6)). This report is designed to fulfill that mandate for FY 2001/02. It covers the following major subject areas:

- Membership and Staffing;
- New Certifications and Testing;
- Recertification and Continuing Education;
- Processing of Complaints;
- Rulemaking and Program Development;
- Newsletter;
- Data Management; and
- Financial Statement

II. Membership and Staffing

Members of the Board are as follows:

- Raymond Poulin, chair (Maine Fire Chief Association) - Term expires 12/31/2002.
- Paul Bosse, (Maine Oil Dealers' Association) - Term expires 12/31/2003.
- Roger Lewis, (Public Member) - Term expired 12/31/2001.¹
- George Seel, (DEP) - Term expires 12/31/2002.
- Alison Smith (Public Member) - Term expires 12/31/2004.²
- Lawrence Winchester, (Certified Installer) - Term expires 12/31/2004.
- (Vacant) (Me. Chamber of Commerce, Certified Installer, or Certified Inspector) - Term expires 12/31/2004.

While Roger Lewis continues to serve as a public member even though he completed the maximum two terms allowed by law, we understand there is an applicant to assume that seat and await action by the Governor's Office. Even though 2002 Legislation expanded the pool of individuals available for a seat traditionally held by the Maine Chamber of Commerce to also include another certified installer or a certified inspector, we continue to search for an applicant for that seat.

James Hynson and Theresa Scott continued to provide staffing to the Board. Staff provided additional sporadic support from the Department of Environmental Protection, including W. David McCaskill, Diana McLaughlin, Beth DeHaas, Butch Bowie, Peter Moulton, Tim Rector, Ted Scharf, and Bob Williams. Dennis Harnish provided support from the Office of the Attorney General.

III. New Certifications and Testing

This section includes discussions on (A) number of installers certified, (B) written exams, (C) on-site exams, (D) upgrades, and (E) apprenticeships.

A. Number of Installers Certified

The number of certified installers is 102 compared to 113 that were certified at the end of FY 2000/2001. At present, this includes 99 who hold Class 2 Oil Tank Installer Certificates, and three (3) Class 3 Oil Tank Installers. Eleven (11) elected not to apply for recertification once their old certificates expired. Phillip Pimentel, an installer who also served as chairman of BUSTI at its inception, passed away and will be greatly missed. The Board reinstated one certificate, which had expired.

There are no underground gasoline tank removers in Maine. The one remaining remover allowed his certificate to lapse last year.

¹ Mr. Lewis completed the maximum number of terms allowed by law as of December 31, 2001. He is continuing to serve until a replacement is found pursuant to the Board's enabling statute.

² Formerly the seat of a representative of the Maine Oil and Solid Fuel Board, the Plumbers' Examining Board, or the State Board of Certification for Geologists and Soil Scientists, it was redesignated a public seat by PL 2001, Chapter 231, Section 6.

With demand for underground tank installation and removal declining as a result of the State's deadline for tank replacement passing, we anticipate the population of installers to continue to decline and a continuing lack of interest in the remover certificate. A need for trained individuals will remain, however, to accomplish maintenance work and conduct inspections. Studies in 2001 indicated approximately 30% of Maine underground storage facilities were not meeting annual inspection requirements. Legislation in 2001 established a certification program for underground oil tank inspectors, which is administered by the Board. That same legislation strengthened inspection requirements for underground oil storage facilities.

B. Written Exams

One individual took and passed the initial examination for underground tank installer on June 18, 2002. We anticipate the applicant to seek a variance from the apprenticeship requirement.

Because of the lack of demand for testing for installer applicants, very little effort was expended updating examinations. Several of the documents used in the examination have been revised. As a result, a process of updating examinations will be necessary if and when demand increases for examinations.

However, we anticipate a demand for underground oil tank inspector certification. We currently are attempting to negotiate a contract for the development of the inspector examination.

C. On-Site Exams

The 1990 amendments to the Board's enabling legislation and rules eliminated the need to conduct on-site examinations for applicants for oil tank installer certificates. While on-site exams remain required for underground gasoline tank removers, no applicants for underground gasoline tank remover certificates took the written examination in FY 2001/02, and thus none were eligible for the on-site examination.

D. Upgrades

No Class 3 Underground Tank Installers attempted apprenticeship and testing requirements to be upgraded to Class 2 Underground Tank Installers in FY 2001/02. The Board's enabling legislation and rules provide for Class 3 installers to obtain upgrades to Class 2 if they apprentice on six (6) motor fuel installations and pass the Class 2 final examination.

E. Apprenticeships

With the passing of Maine's deadline for tank replacement in October 1997, the requirement for six (6) apprentice installations has become considerably more difficult since the availability of new installation work declined appreciably. No apprentices qualified for the final examination last year and none of the previously certified apprentices appear to be interested in remaining active.

F. Variances

The 1990 amendments to the Board's enabling legislation instituted a variance process for individuals to obtain variances for the apprenticeship portion of the installer certification process (32 MRSA §10010.3-A.D; 06-481 CMR c. 3 §4.D). During FY 2001/02, the Board did not receive any variance applications. However, we anticipate an application in the near future from the individual who passed the initial examination this fiscal year.

IV. Recertification and Continuing Education

Eighty (80) installers applied for recertification and were granted full renewal certificates. Three (3) installers received probationary certificates and allowed to make up continuing education that they needed.

All were subsequently recertified. One was reinstated after making up needed continuing education before reapplying.

Continuing education programs accredited by the Board in FY 2001/02 generally applicable to all installers are listed in Table 1. The Board approved a total of 53 credit hours from both program sponsor and individual installer applicants.

PROGRAM	SPONSOR	DATE APPR.	HOURS
Fall 2001 Training	Maine Oil Dealers Association	September 21, 2001	4
API's Operation Underground Installation Segment	API	January 18, 2002	3
Removal Segment			2
PEI Development/State Educational Programs	Marcel Moreau Associates	March 15, 2002	8
8-Hr. Refresher Training; OSHA Basic Health	Field Services, Inc.	March 15, 2002	2
Spring 2002 Program	Maine Oil Dealers Association	March 15, 2002	4
ABC's of Hazardous Material (Renewal)	Safety Communications Corp.	March 15, 2002	8
Back to Basics; 8-Hr. Refresher (Renewal)	Safety Communications Corp.	March 15, 2002	2
2002 Hazmat 8-Hr. Refresher	Safety Communications Corp.	March 15, 2002	2
Confined Space Plan	Safety Communications Corp.	March 15, 2002	2
2003 Annual Facility Inspections	Maine DEP	April 29, 2002	2
Basic Erosion Control Practices	Maine DEP	April 29, 2002	1
Advanced Erosion & Sediment Control	Maine DEP	April 29, 2002	1
8-Hr. Hazardous Waste Oper. Refresher (Renewal)	SafeTech	May 17, 2002	2
8-Hr Hazardous Waste Supervisor Training (Renewal)	SafeTech	May 17, 2002	2
40-Hr. Hazardous Waste Operations (Renewal)	SafeTech	May 17, 2002	8

Table 1. Continuing education opportunities accredited by the Board of Underground Storage Tank Installers FY 2001/02.

V. Processing of Complaints

Disciplinary actions involving six (6) investigations and ten (10) alleged violations were processed and resolved in FY 2001/02, including two (2) investigations held over from 1999/2000. A summary of the Board's actions in these matters is presented in Appendix A. Four (4) investigations were resolved by Consent Agreement, one (1) was dismissed, and the other one (1) withdrawn.

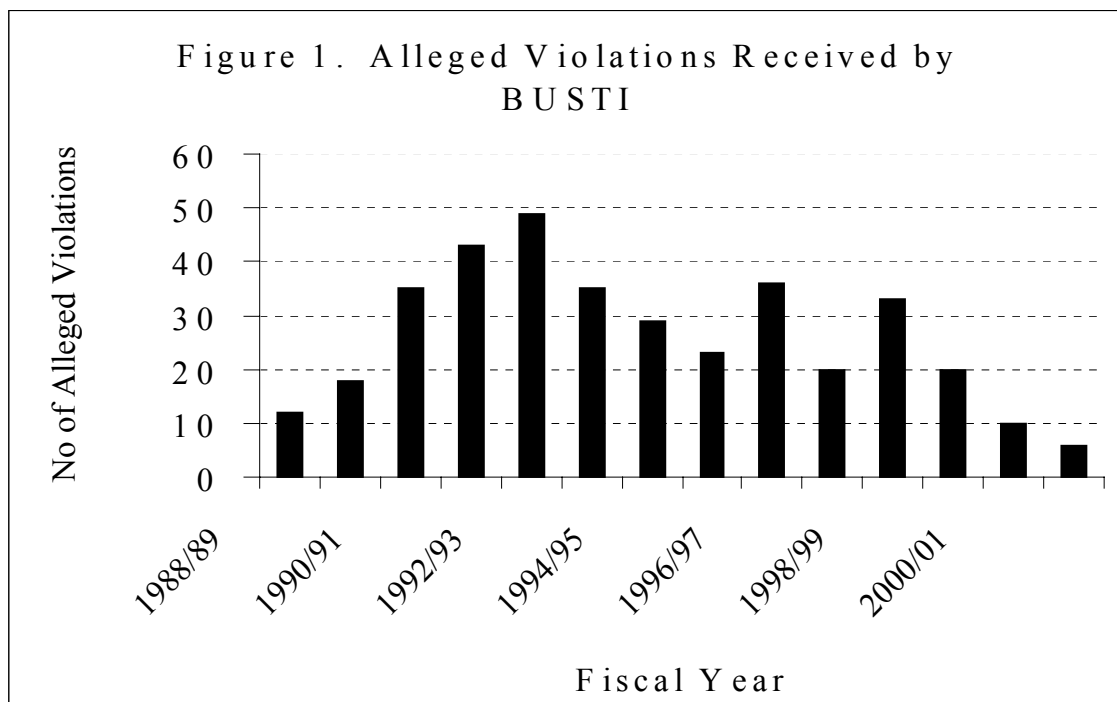
Five (5) complaints involving six (6) alleged violations were received in FY 2001/02. One investigation, 2002-02, remains unresolved at the end of the year and is pending action by the alleged responsible installer to voluntarily correct an issue of piping installation at a marketing and distribution facility.

Figure 1 shows the number of alleged violations investigated by the Board and its staff since promulgation of the Board's rules in August 1988. This graph indicates a continuing decline in the number of complaints referred to the Board. This probably relates to the overall decline in numbers of new installations.

VI. Rulemaking and Program Development

The Board conducted rulemaking to establish a program of certifying and regulating underground oil storage tank inspectors. The rulemaking including amendments to Chapters 1 (Administrative Rules) and 2 (Adjudicatory Hearings) as well as a new Chapter 6. The 120th Maine Legislature passed a law that provided the Board with authority to certify inspectors of underground storage tanks. Previously, two studies by the Maine Department of Environmental Protection indicated a need to strengthen the State's program for inspecting existing underground storage facilities. The new and amended rules became effective June 19, 2002.

We amended the rules for certifying underground gasoline tank removers to make them consistent with legislation allowing on-site examinations to be conducted on fuel oil tanks. The amendments became effective June 19, 2002.



VII. Newsletter

One of the initial benefits of certification of installers was the development of ability by the State to communicate with installers via a newsletter. One issue of "The Maine Installer" was published during FY 2001/02. The newsletter appears to be well received whenever it can be published. Additionally, Board staff assisted with a number of mailings by the Department on specific subjects to the installers. These subjects included, but were not limited to new statutory and regulatory provisions involving siting of underground oil storage facilities, and methods for inspecting such facilities.

VIII. Data Management

We continue to use the databases developed previously in Microsoft EXCEL for our data management needs. While a draft Microsoft ACCESS database was developed, it was never implemented because the Department decided to go forward with plans to incorporate installer data into its ORACLE database of underground tank registrations. We continue to await the completion of this effort.

A home page on the Internet which includes the Board's application forms, a list of certified individuals, a description of the Board's program, and past newsletters, meeting minutes, and approved continuing education is completed and undergoing ongoing maintenance.

IX. Financial Statement

The Board's financial statement for FY 2001/02 is provided in Table 2. For the first year, revenues of the Board have their own budget categories in the State system and thus actual values, as entered by the Agriculture, Conservation, and Environmental Protection (ACE) Service Center are provided.

Income shown for recertification varies widely on a biennial basis. Recertification is required every two- (2) years, and thus income for this year reflects the vast majority of tank installers becoming recertified this year. It is therefore expected that this figure will follow two (2) year cycles of being high and low, with this year a high year. Shortfalls in BUSTI budgeting are made up from the other income sources in the State's Groundwater Oil Cleanup Fund.

Respectfully Submitted,

Raymond Poulin, Chairman

Income	\$11,500.00
Expenses:	(\$)
Personal Services	\$76,705.20
Fringe	\$29,456.49
Longevity/Overtime	\$ 4,094.22
Other	\$ 7,779.01
Subtotal	\$118,034.92
Grand Total³	\$(106,534.92)

Table 2. Financial statement for the Board of Underground Tank Installers, July 1, 2000 through June 30, 2002.

³Pursuant to 32 MRSA Sec. 10012.2, all fees and expenses of the Board of Underground Storage Tank Installers are deposited into and paid out of the Ground Water Oil Cleanup Fund. Thus, shortfalls of the Board are made up from other revenue sources from the Fund.

Maine Board of Underground Storage Tank Installers
Summary of FY 2001/02 Enforcement Actions (By Violation)

Alleged Violation	Year	No.	Date Received	Action Date	Result	Fine	(Days) Susp.	Days Probation	Other	Date Closed
6-096CMR691(4)(B)	2001	7	6/21/2001	12/21/2001	CA	\$250				12/21/2001
06-096CMR691(5)(B)(1)(a)	2001	7	6/21/2001	9/21/2001	Dismiss					9/21/2001
06-096CMR691(5)(B)(6)(b)	2002	1	10/22/2001	4/25/2002	Withdrawn					4/25/2002
06-096CMR691App.D.1	2001	7	6/21/2001	9/21/2001	Dismiss					9/21/2001
06-096CMR691App.D.1	2002	1	10/22/2001	12/10/2001	Withdrawn					12/10/2001
06-096CMR691App.E.1	2001	5	5/1/2001	6/1/2001	CA	\$600			Repair all like sites	7/20/2001
06-096CMR691App.E.5	2001	7	6/21/2001	12/21/2001	CA	\$1,200				12/21/2001
06-481CMR1.4.B(1)	2002	3	2/15/2002	3/15/2002	CA	\$250		180	Ed.	3/15/2002
06-481CMR1.4.B(1)	2002	4	2/15/2002	3/15/2002	CA	\$250		180	Ed.	3/15/2002
06-481CMR1.4.B(1)	2002	5	2/15/2002	3/15/2002	CA	\$250		180	Ed.	3/15/2002